

ESTTA Tracking number: **ESTTA644924**

Filing date: **12/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	RussSmith
Granted to Date of previous extension	01/10/2015
Address	PO Box 1860 Ocean City, NJ 08226 UNITED STATES

Correspondence information	RussSmith PO Box 1860 Ocean City, NJ 08226 UNITED STATES tm@acbitcoin.com Phone:609-398-3301
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Applicant Information

Application No	86135516	Publication date	11/11/2014
Opposition Filing Date	12/17/2014	Opposition Period Ends	01/10/2015
Applicant	URBAN TREND, LLC 1101 DOVE STREET NEWPORT BEACH, CA 92660 UNITED STATES		

Goods/Services Affected by Opposition

Class 021. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Barware, namely, flasks, bottle openers, corkscrews; beverage glassware; housewares and accessories, namely, shot glasses, and decanters

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4435599	Application Date	03/15/2013
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Registration Date	11/19/2013	Foreign Priority Date	NONE
Word Mark	MILLY BITCOIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2013/02/19 First Use In Commerce: 2013/02/19 On-line journals, namely, blogs featuring information about Bitcoin		

Attachments	85877951#TMSN.png(bytes) ttab-BITCOIN.pdf(888143 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Russ Smith/
Name	RussSmith
Date	12/17/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of trademark application Serial No. 86135516
For the mark BITCOIN
Published in the Official Gazette on November 11, 2014**

NOTICE OF OPPOSITION

**Russ Smith
PO Box 1860
Ocean City, NJ 08226**

v.

**Urban Trend, LLC
1101 DOVE STREET
NEWPORT BEACH, CALIFORNIA 92660**

The above-identified opposer believes that he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same. The grounds for opposition are as follows:

BACKGROUND

- 1. "Bitcoin" is a term referring to an Internet system that is a currency, payment system, and a form of investment similar to a commodity ("Bitcoin currency"). Bitcoin is "decentralized" and it operates by many people around the world agreeing to run the software. There is no central authority, company, or entity that owns the Bitcoin currency system.**
- 2. Various logos referring to the Bitcoin currency are commonly sold on consumer products such as physical coins, t-shirts, key chains, barware, etc. by many different vendors.**

STANDING

- 3. Russ Smith is the sole owner of Atlantic City Bitcoin, LLC and HELP.org, LCC. These entities maintain the registration of the trademark MILLY BITCOIN (Reg. No. 4435599) for "On-line journals, namely, blogs featuring information about Bitcoin." These entities operate a number of other Bitcoin-related web sites such as Bitcoin.me!, CoinReserve.com, and BitcoinSwag.com.**
- 4. Plaintiff's businesses currently sell items imprinted with "Bitcoin" and Bitcoin current-related logos such as custom-pressed coins and decals. These entities have also created t-shirts and hats with the MILLY BITCOIN mark. Selling barware such as shot gasses and decanters imprinted with the Bitcoin currency logo and/or the MILLY BITCOIN mark is part of the normal expansion of Plaintiff's businesses.**

GROUNDS

5. Defendant committed fraud during the prosecution of its application for registration. Defendant replied to an office action requesting the significance of BITCOIN to the application. Defendant replied that BITCOIN had no significance. Defendant failed to disclose that "BITCOIN" merely describes a characteristic of applicant's goods. Namely, "BITCOIN" referred to the fact that the items would be labeled with logos referring to the Bitcoin currency.
6. A BITCOIN trademark for barware would create confusion for consumers as to the source of products that are imprinted with BITCOIN or Bitcoin currency-related logos. Plaintiff, as well as several other vendors, already sell similar products.
7. BITCOIN for barware with BITCOIN or Bitcoin currency-related logos merely describes a characteristic of applicant's goods. BITCOIN refers to the fact that the products have Bitcoin currency-related logos as part of the design.
8. A trademark registration for BITCOIN for the sale of barware with Bitcoin currency-related logos would be deceptively misdescriptive. It would deceive consumers into believing that Defendant is the source of the Bitcoin currency system.
9. A trademark registration for BITCOIN for the sale of barware with Bitcoin currency-related logos would falsely suggest a connection with Plaintiff. It would confuse consumers as to the source of products that contain Bitcoin currency-related logos or MILLY BITCOIN logo.

By Russ Smith Date 12/17/2014
Russ Smith, *pro se*